



GUNSTER
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May 15, 2024

VIA ELECTRONIC FILING

Honorable William H. Orrick
United States District Court
San Francisco Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *McKnight et al v. Juul Labs, Inc. et al*, Case No. 3:20-cv-02600-WHO

Dear Judge Orrick:

Defendant Juul Labs, Inc. ("JLI") respectfully submits this letter to correct an inaccuracy in the letter filed by the Schlesinger Firm, counsel for Plaintiffs Walker McKnight, David McKnight, and Candace McKnight, on May 13, 2024. *See* DKT 4234, Letter from Plaintiff's Counsel Regarding The Deposition and Preservation Deposition of Walker McKnight.

The Schlesinger Firm's letter inaccurately states that Defendants seek production of Plaintiffs' text messages:

Specifically as it related to the discover (sic) JLLI (sic) has indicated thy (sic) would ask for, text messages and similar items, Plaintiff's position is that such discovery has already been produced as part of CMO 17 and that during the course of negotiations between leadership in the MDL an agreement as (sic) reached that the Plaintiff would not request text messages or similar items between the founding and investor Defendants in exchange for similar information not being sought from respective personal injury Plaintiffs.

Id. at pg. 2-3 (emphasis added).

In fact, the draft discovery Defendants sent to the Schlesinger Firm during negotiations and that was included as Exhibit F to Defendants' Letter does not seek text messages. *See* DKT 4235, Letter from Defendants Regarding McKnight Deposition at Exhibit F. Were there any doubt, Defendants' cover email transmitting the draft discovery to the Schlesinger Firm also noted that Defendants do not seek text messages. *See* **Exhibit A** (May 13, 2024 Email from T. Danninger to J. Haberman).

Counsel for JLI requested that the Schlesinger Firm correct the record, and the Schlesinger Firm refused.¹ **Exhibit B** (May 15, 2023 Email Exchange between T. Danninger and J. Haberman).

¹ In the Schlesinger Firm's response to counsel's request, the Schlesinger Firm indicated that it does not believe the record needs to be corrected, because Defendants initially requested text messages and because the discovery requests Defendants ultimately served requests that "asked for all communications which would also include text messages." *See id.*

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JLI submits this letter to clarify that Defendants have not requested Plaintiffs' text messages. As explained in Defendants' discovery letter filed on May 13, 2024, *see* DKT 4235, Defendants' requests minimize the burden on Plaintiffs while ensuring that Defendants have documents that are needed to conduct an efficient cross-examination of Mr. McKnight.

Dated: May 15, 2024

Respectfully submitted,

By: /s/ Timothy S. Danninger

Timothy S. Danninger (*pro hac vice*)

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Certificate of Service

I hereby certify that on May 15, 2024, I served a copy of the foregoing on the Clerk of Court by CM/ECF, which will provide notice to all parties and counsel of record.

By: /s/ Timothy S. Danninger

Timothy S. Danninger

This, again, mischaracterizes the nature of Defendants' negotiations with the Schlesinger Firm. While Defendants did initially indicate an intent to request text messages, as discussed, Defendants ultimately decided not to request them—which Defendants explicitly told the Schlesinger Firm when it served the draft requests.